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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/828,560	03/31/1997	JOHN M. EGNOR	3398T	5182

7590 06/05/2002

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EXAMINER

GRAHAM, MATTHEW C

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

08/828,560

Applicant(s)

08/828, 560

Examiner

GRAHAM

Art Unit

3613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on 12/10/2001

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-12 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  6)  Claim(s) 1-12 is/are rejected.

7)  7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  9)  The specification is objected to by the Examiner.

10)  10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  15)  Notice of References Cited (PTO-892)

18)  18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

19)  19)  Notice of Informal Patent Application (PTO-152)

17)  17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20)  20)  Other: \_\_\_\_\_

Art Unit: 3683

1. Receipt is acknowledged of the amendment filed on 12/10/2001.
2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 is infinite in the recitation if "shifting of the", which is grammatically incorrect and the recitation of "comprises confining", which is confusing.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6/1, 6/2, 7, 10, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregg in view of Rapp.

Note the previous discussion in paragraph 3 of paper number 9.

5. Claims 3, 4, 6/3, 6/4, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregg as modified by Rapp as applied to claims 1-2 above, and further in view of Wilson et al.

Note the discussion in paragraph 4 of paper number 9.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3683

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication should be directed to Matthew Graham at telephone number 703-308-2570.

Graham/sr  
May 31, 2002

*M. C. Graham*  
6.4.2002  
MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310